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to the most recent address provided by the participant.

(c) A participant covered by FERS must obtain the consent of his or her spouse before obtaining an in-service withdrawal unless the participant was granted, within 90 days of the date on which the new withdrawal form is received by the TSP, an exception to a signature requirement under § 1650.64. To show spousal consent, a participant must submit to the TSP record keeper Form TSP-75, Age-Based In-Service Withdrawal Request, or Form TSP-76, Financial Hardship In-Service Withdrawal Request, signed by his or her spouse. Once a form containing the spouse's consent has been submitted to the TSP record keeper, the spouse's consent is irrevocable for purposes of that form.

[62 FR 49113, Sept. 18, 1997, as amended at 67 FR 17605, Apr. 11, 2002]

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for an exception to a notification requirement based on unknown whereabouts must be submitted to the Executive Director on Form TSP-16, Exception to Spousal Requirements, accompanied by one of the following:

(1) A judicial determination (court order) stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination signed by the appropriate department or division head which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons that meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith

efforts the participant has made to locate the spouse in the 90 days preceding submission to the TSP of the request for an exception. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address. Negative statements, such as, "I have not seen nor heard from him" or, "I have not had contact with her", are not sufficient.

(ii) The statements from two other persons must support the participant's statement that the participant has made attempts within the preceding 90 days to locate the spouse and that the participant does not know the spouse's whereabouts.

(iii) All statements must be signed and dated and must include the following certification: "I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both."

(b) A withdrawal election received within 90 days of an approved exception may be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

[62 FR 49113, Sept. 18, 1997, as amended at 67 FR 17605, Apr. 11, 2002]

§ 1650.64 Executive Director's exception to requirement to obtain the spouse's signature.

(a) Wherever this subpart requires a spouse's consent to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of § 1650.63; or

(2) Due to exceptional circumstances, requiring the spouse's signature would be otherwise inappropriate.

(i) An exception to the spousal signature requirement may be granted based on exceptional circumstances only when the participant presents a judicial determination (court order) or a governmental agency determination signed by the appropriate department or division head. A court order or a

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governmental agency determination must contain a finding or a recitation of such exceptional circumstances regarding the spouse as would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed and include circumstances such as when a court order:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her Thrift Savings Plan account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A withdrawal election by a separated participant or an in-service withdrawal request by a participant in the Federal service received within one year of an approved exception will be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

(c) The requirements for establishing an exception for a withdrawal by a separated participant or an in-service withdrawal by a participant in the Federal service and the 90-day period of validity of an approved exception also apply to exceptions for loans under 5 CFR 1655.18.

[62 FR 49113, Sept. 18, 1997, as amended at 67 FR 17605, Apr. 11, 2002]

PART 1651—DEATH BENEFITS

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AUTHORITY: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

SOURCE: 62 FR 32429, June 13, 1997, unless otherwise noted.

§ 1651.1 Definitions.

Terms used in this part shall have the following meanings:

Beneficiary means the person or legal entity who is entitled to receive a death benefit from a deceased participant's TSP account;

Board means the Federal Retirement Thrift Investment Board;

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

Death benefit means all or a share of the deceased participant's TSP account at the time of payment;

Domicile means the participant's place of residence for purposes of state income tax liability;

Eligible retirement plan means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)); an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract); a qualified trust; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

Investment fund means the C Fund, the F Fund, the G Fund, or any other TSP investment fund created subsequent to December 27, 1986;

Order of precedence means the order in which a death benefit will be paid, as specified in 5 U.S.C. 8424(d);

Participant means any person with an account in the Thrift Savings Fund;